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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/762,998 | 01/22/2004 | Rebecca M. Minard | 49339-C | 6201 |
| 21874 | 7590 | 11/24/2004 | | |
| EDWARDS & ANGELL, LLP P.O. BOX 55874 BOSTON, MA 02205 | | | EXAMINER LEVY, NEIL S | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 1616 | |

DATE MAILED: 11/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/762,998

Applicant(s)

MINARD ET AL.

Examiner

Neil Levy

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 40-75 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 40-75 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

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The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-56, 58-74 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-32 of U.S. Patent No. 6,733,771. Although the conflicting claims are not identical, they are not patentably distinct from each other because the application claims are met by the patent, in respect to Horse, packages amounts and ingredients claimed.

Claims 40, 41, 43, 44, 46, 47, 54-57 are rejected under 35 U.S.C. 103(a) as being unpatentable over CH 535006.

See col.2, lines 12-18; minerals are placed in a 3 compartment open packages, to feed animals; it would be obvious to feed any specific animal, be it horse, dog, able to

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eat from the package (fig.1)-if there were only 1 animal, the feed stuffs would correspond to that animal; and would be selected for the animal to be fed.

Claims 40, 41, 43, 44, 46-50, 54, 56, 57 are rejected under 35 U.S.C. 103(a) as being unpatentable over Von Brunningen GB680817.

Mineral, vitamin supplements for specific animals^(lines) (40-54, p.1), not excluding dogs and horses (lines 30-31, p.2) are packaged together (line 44-83, p.2) fig. 2).

Claims 40, 41, 46, 47, 54, 56 are rejected under 35 U.S.C. 102(b) as being anticipated by Thomas et al 3924573.

Horse packages, compartmented, holding mineral-salt (col.1, lines 1-3, 20-23) 65-68) and vitamin (fig.1).

Claims 40, 42-44, 46, 51, 52, 54, 55, 57, 58, 60-62, 64, 69, 70, 72, 73, 75 are rejected under 35 U.S.C. 102(b) as being anticipated by Magnant et al 5787839.

See fig. 4, 9: multi compartment package for a specific dog (col.3, top). Food is provided; thus, inclusive of vitamins, minerals, protein as food constituents (summary) even if in the same section.

Claims 40-44, 46-52, 54-56 are rejected under 35 U.S.C. 102(b) as being anticipated by Phillippi-5377620.

See fig. 3, 4-sealed, multi compartment feed supplement packages permit selection and presentation of feed stuffs for individual horses (col.2, lines 25-33) in separate sections (col.2, lines 43, 44). Compartments are of rigid material (col.3, lines 49-55), covered and moisture protected (col.6, top), with size adjustable to desired amount of feed stuff (col.1 lines 57-63), with separate protein (concentrate, grain) in

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individual section (col.5, lines 53-60). Although not specified, grain and hay are known to include vitamins, minerals, electrolytes, proteins, thus placing hay in a section, and grain in a section, also provides these ^{nutrient} ~~nutrient~~ categories in each section.

Claims 40-44, 46-48, 51-53, 57-62, 64-66, 69-71, 75 are rejected under 35 U.S.C. 103(b) as being anticipated over GB-1474931.

Flexible plastic, water proof sealed packaged (fig.2) sections of individual nutrient-vitamin, protein, chemical entity-veterinary preparations (p.1, lines 63-95) specifically prepared for individual animals (p.2, top) are known, administration and preparation for a dog or feline is immediately envisioned, as the packages are of animal food, of predetermined animal parts (p.1, lines 23-38) suitable only for ~~carnivores~~ ^{omnivores}, found in homes (p.2, lines 17, 18).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Neil Levy whose telephone number is 571-272-0619. The examiner can normally be reached on Tuesday through Friday from 7:00a.m to 5:30p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Kunz, can be reached on 571-272-0887. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR.

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Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free).



Levy/tgd

November 4, 2004

NEIL S. LEVY
PRIMARY EXAMINER